

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA

C O N F I D E N T I A L STATE 176290

E.O. 11652: N/A

TAGS: EFIS, EIEV, BDIS, PFOR, US, PE

SUBJECT:STARKIST CONSUMO HUMANO ASSETS

REF: LIMA 5900, LIMA 6208

1. WE OF COURSE STRONGLY CONCUR IN DE LA PUENTE'S VIEW THAT CONSUMO HUMANO ASSETS NOT COVERED BY GREENE AGREEMENT AS INDICATED BELOW. HOWEVER, HIS STATEMENTS IMPLY AN APPARENT SHIFT IN GOP RATIONALE FOR CHARGES AGAINST GLIGO AND COOKLIN.

2. OUR UNDERSTANDING OF BASIS FOR COMPTROLLER GENERAL'S CHARGES INITIALLY WAS THAT GOP HAD EXPROPRIATED ALL STARKIST ASSETS, INCLUDING CONSUMO HUMANO, HAD PAID FOR THEM THROUGH GREENE AGREEMENT, AND THAT TANTALEAN, COOKLIN, AND GLIGO HAD EFFECTED TRANSFER OF CONSUMO HUMANO ASSETS BACK TO STARKIST WITHOUT COMPENSATION TO GOP. WE TAKE IT THAT AS A RESULT OF GOP REALIZATION THAT DE LA FLOR LETTER SPECIFICALLY EXCLUDED CONSUMO HUMANO ASSETS FROM SCOPE OF GREENE AGREEMENT, THEY HAVE NOW SHIFTED TO NARROWER GROUND FOR CHARGES -- THAT
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ALTHOUGH DE LA FLOR LETTER AND RES. 01291-73PE AUTHORIZE

"RIGHTS OF USE AND EXPLOITATION" BY STARKIST, TRANSFER DOCUMENT SPEAKS IN TERMS OF TITLE, APPARENTLY GOP IS SEIZING ON DIFFERENCES IN LANGUAGE TO CHARGE THAT TANTALEAN, WITH COMPLICITY OF COOKLIN AND GLIGO, CONFIDENTIAL

THUS TRANSFERRED TO STARKIST MORE THAN HE WAS AUTHORIZED TO TRANSFER.

3. IF OUR UNDERSTANDING OF GOP'S CURRENT RATIONALE IS CORRECT, YOU SHOULD POINT OUT TO APPROPRIATE GOP OFFICIALS OUR VIEW THAT CONSUMO HUMANO ASSETS WERE NOT COVERED BY GREENE AGREEMENT PRECISELY BECAUSE BOTH GOVERNMENTS UNDERSTOOD THAT PROPERTY EXPROPRIATED BY GOP WAS IN PROCESS OF BEING RETURNED TO STARKIST, THUS EFFECTIVELY NULLIFYING ORIGINAL EXPROPRIATORY ACT AND GOP'S OBLIGATION UNDER INTERNATIONAL LAW TO PROVIDE COMPENSATION. IF GOP NOW INTENDS TO INTERPRET DE LA FLOR LETTER AND RES. 01291-73PE AS AUTHORIZING RETURN TO STARKIST OF RIGHTS WITH RESPECT TO CONSUMO HUMANO ASSETS THAT WERE SOMEHOW OF LESS VALUE THAN THOSE TAKEN FROM THEM, THEN GOP WOULD BE OBLIGATED TO COMPENSATE STARKIST FOR DIFFERENCE IN VALUE BETWEEN RIGHTS EXPROPRIATED AND RIGHTS RETURNED. IN SHORT, GOP CANNOT HAVE IT BOTH WAYS. THEIR ARGUMENT SEEMS PARTICULARLY STRAINED IN VIEW OF FACT THAT RETURNED ASSETS WERE TRANSFERRED TO MIXED COMPANY IN WHICH GOP PARTICIPATES.

4. (FYI: WHILE WE WOULD TEND TO CONCUR AS A GENERAL PRINCIPLE IN DE LA PUENTE'S VIEW THAT GLIGO AND COOKLIN NOT PROTECTED BY GREENE AGREEMENT WITH RESPECT TO SUBSEQUENT ACTS, WE DO NOT WISH TO TAKE A POSITION ON THIS ASPECT WHICH IS LARGELY IRRELEVANT TO OUR BASIC ARGUMENT -- NAMELY THAT CHARGES AGAINST THEM ARE FRIVOLOUS AND WITHOUT FOUNDATION. END FYI)

5. RETURN OF GLIGO AND COOKLIN TO PERU FOR PURPOSES OF INVESTIGATION IS CLEARLY OUT OF THE QUESTION GIVEN LIKELIHOOD OF ARREST. WITH RESPECT TO LINK'S JUDGMENT THAT THEY SHOULD HAVE LEGAL REPRESENTATION IN PERU TO CONFIDENTIAL

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PROTECT THEIR INTERESTS, BOTH STARKIST AND DEPARTMENT ARE CONCERNED THAT GOP WILL USE CONTINUATION OF INVESTIGATION AS EXCUSE FOR INACTION (AS DE LA PUENTE SEEMS TO BE DOING ALREADY). CLEARLY WE CANNOT CONSIDER CONTINUATION OF CRIMINAL INVESTIGATION TO BE RESPONSIVE TO YOUR NOTE OF JUNE 11. IN THIS REGARD, WE BELIEVE YOU SHOULD EMPHASIZE THE SERIOUSNESS OF THE PROBLEM TO ;ARCHAND AND OTHER APPROPRIATE OFFICIALS ALONG FOLLOWING LINES.

A) USG REMAINS EXTREMELY CONCERNED OVER GOP'S ACTIONS IN THIS MATTER WHICH CANNOT HELP BUT RAISE QUESTIONS AS TO ITS GOOD FAITH COMPLYING WITH THE INTER-GOVERNMENTAL UNDERSTANDINGS REACHED IN CONNECTION WITH THE GREENE

NEGOTIATIONS.

B) IT IS PARTICULARLY INOPPORTUNE THAT SUCH QUESTIONS HAVE BEEN RAISED AT A TIME WHEN BOTH GOVERNMENTS ARE ENGAGED IN AN ATTEMPT TO RESOLVE OTHER OUTSTANDING PROBLEMS OF MAJOR IMPORTANCE.

C) CONTINUATION OF THE PROCEEDINGS AGAINST GLIGO AND COOKLIN WOULD RISK PERMITTING WHAT SEEMS TO BE A RELATIVELY MINOR PROBLEM WITHIN THE GOP TO JEOPARDIZE THESE MUTUAL EFFORTS OF OUR TWO GOVERNMENTS.

D) IN OUR VIEW, ONLY SATISFACTORY WAY OF REMOVING DOUBTS RAISED WOULD BE FOR GOP TO PROMPTLY TERMINATE CRIMINAL PROCEEDINGS AGAINST STARKIST AND ITS REPRESENTATIVES.

6. WE REALIZE THAT IT WILL BE DIFFICULT FOR GOP TO SIMPLY DROP CHARGES AT THIS POINT. SHOULD THEY SEEM DESIROUS OF COOPERATING, YOU MAY ADVISE THEM THAT WE WOULD BE WILLING TO ENCOURAGE COMPANY TO HAVE GLIGO AND COOKLIN PROVIDE AFFIDAVITS OR OTHER OFFICIAL STATEMENTS TO GOP INVESTIGATORS, BUT ONLY IF WE CAN BE ASSURED THAT SUCH EVIDENCE WOULD BE CONSIDERED SUFFICIENT TO PROMPTLY CLEAR THEM OF ALL CHARGES. (FYI: THIS POSSIBILITY HAS BEEN DISCUSSED WITH COMPANY AND THEY SEEM AGREEABLE TO IT. END FYI).

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7. STARKIST WILL WITHHOLD DRAFT PRESS RELEASE PENDING OUTCOME OF ABOVE EFFORTS TO GET CHARGES DROPPED. THEY REMAIN ANXIOUS OVER STATUS OF JOINT VENTURE WITH PESCAPERU BUT DON'T WISH TO REPLACE GLIGO AS THEIR REPRESENTATIVE IN FACE OF GOP ACTION AGAINST HIM. YOU MAY WISH TO POINT OUT IMPLICATIONS FOR US INVESTORS CONSIDERING VIABILITY OF ONGOING RELATIONSHIPS WITH GOP.

8. DEPARTMENT OFFICERS WILL BE RAISING MATTER WITH GARCIA BEDOYA WITHIN NEXT FEW DAYS.
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